Planning Inspectorate

# Appeal Decision

Site visit made on 11 August 2026

**by J J Evans BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 2 September 2026**

## Appeal A Ref: 6009101
## 46 Market Square, Witney, Oxfordshire OX28 6AL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mrs Juliet Druce against the decision of West Oxfordshire District Council.
- The application Ref is 25/01989/FUL.
- The development proposed is the change of use of an existing single storey building from commercial use to a single dwelling and side extension.

## Appeal B Ref: 6009103
## 46 Market Square, Witney, Oxfordshire OX28 6AL

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to grant listed building consent.
- The appeal is made by Mrs Juliet Druce against the decision of West Oxfordshire District Council.
- The application Ref is 25/01990/LBC.
- The works proposed are the change of use of an existing single storey building from commercial use to a single dwelling and side extension.

## Decision

1. Appeal A: the appeal is dismissed.

2. Appeal B: the appeal is dismissed.

## Preliminary Matters

3. A revised version of the National Planning Policy Framework (the Framework) was published on 17 August 2026, and the comments of the main parties were sought. Consideration has been given to those received in reaching the appeal decisions.

4. 46 Market Square and 44 and 44A Market Square are grade II listed buildings, all of which are in the Witney and Cogges Conservation Area. As required by Sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), special regard has been paid to preserving a listed building or its setting or any features of special architectural or historic interest which it possesses, and of preserving or enhancing the character or appearance of a conservation area.

5. The appeals building is a single storey outbuilding to the rear of 46 Market Square. Known as Long Barn, it has been referred to by the Council as a listed curtilage building and as a Non-Designated Heritage Asset. The building is within the same ownership of those who own No 46, and historic maps of the area show that it existed before 1st July 1948. The outbuilding has a legible ancillary form,

appearance and positioning that denotes a physical and functional relationship to No 46. Planning and listed building consent applications for the scheme were submitted, and the appellant is appealing against the refusal of both. Consequently, for the appeals Long Barn has been considered as a listed curtilage building.

6. As set out above, there are two appeals at the property, one of which seeks planning permission for the change of use and extension (appeal A) and the other listed building consent (appeal B). Each case has been considered on its individual merits, although to avoid duplication they have been dealt with together, except where otherwise indicated.

## Main Issues

7. The main issues are:

- The effect of the scheme upon the character and appearance of the area and upon the host building, having particular regard to whether it would preserve the character and appearance of the conservation area, and preserve listed buildings, their settings, and any features of special architectural or historic interest they possess;
- The effect upon future occupiers, having particular regard to outlook, light levels, overlooking, noise and disturbance;
- The effect upon protected species; and
- The effect of the change of use upon the vitality and viability of the town centre.

## Reasons

*Character and Appearance*

8. Long Barn is a stone, brick and concrete tiled single storey building positioned to the rear of 46 Market Square (No 46). There is a yard to the north of the building that is enclosed by 6 Eagle Industrial Estate and 44 Market Square (No 44). Long Barn and No 46 share an access with the industrial estate onto Market Square. Within the surrounding area there are a mix of buildings and uses, including residential properties at 2 and 6 Church Green (Nos 2 and 6).

9. Witney is an historic market town, and as described within the Witney and Cogges Conservation Area Character Appraisal (2013), it has a bustling and vibrant town centre. There are mostly historic houses to either side of Church Green, many of which remain in residential use, whilst the Market Square comprises a more varied mix of uses that includes shops, services, and offices. There is a noticeable contrast between the relative tranquillity of Church Green compared to the more bustling, vibrant nature of Market Square. Many of the buildings are two or three storey with elegantly mannered appearances, and they form long lines to either side of the roads, giving a high status appearance to this part of the town. As identified in the Council's Design Guide (2016) (DG) the repeated use of the local stone gives an harmonious visual cohesion to the historic buildings and a distinct identity to the town. All these elements are part of the significance of the conservation area.

10. Nos 44, 44A and 46 form part of a group of historic buildings in Market Square that make a positive contribution to the character and appearance of the conservation area. Constructed predominantly of local stone, No. 46 was formerly an inn and is built of coursed and ashlar limestone beneath a stone slate roof, while Nos 44 and 44A originated as a house. Both properties have elegantly mannered public frontages that contrast with the more functional and utilitarian nature of their rear elevations. The architectural and historic special interest of these buildings derives from their age, historic uses, use of traditional local materials, and their evolution over time, including the two rear outriggers to No. 46 and the long brick rear extension to Nos 44 and 44A.

11. Long Barn is an historic outbuilding to No 46 that forms the southern boundary to the site. Separated from the main building by the gated access into the yard, the historic ancillary nature of the building to its host remains evident. The building's significance derives in part through its use of coursed rubble stone, the extensive continuity of its southern wall that delineates the property boundary, and that its former open frontage remains evident through the retention of the timber and stone roof supports. These features, along with the simple, utilitarian linear form of the building and its physical and functional subservience, position and relationship to No 46 and its yard, are all part of its special historic and architectural interest as an ancillary outbuilding. It forms an integral part of the setting of No 46, as well as positively contributing to the character and appearance of the conservation area.

12. The change of use of Long Barn would retain the historic rafters and the long, unbroken length of walling that defines the southern elevation. The replacement of the brick and cladding infill panels with mostly glazing and the retention of the timber and stone roof supports, would be positive aspects of the scheme, as it would sympathetically reflect the former open frontage of the building and its relationship to No 46 and its service yard.

13. Nevertheless, the proposed extension would be a harmful addition to Long Barn and one which would detract from its significance and that of No 46. As with No 44, the rear of No 46 is characterised by the functionality of its outriggers and because of their legible subservience to the main buildings. This is particularly evident with No 46 as there is a defined, cascading vertical hierarchy to the outriggers as they step down from the host. In such a context the height and size of the proposed extension would conflict with this hierarchy. The extension would appear as an incongruously dominating addition due to its detached separation from No 46 and its strong vertical emphasis that would be exaggerated by the presence of cladding upon the first floor. The simple, utilitarian linear form and appearance of Long Barn would be overwhelmed by the size and height of the extension. Even when seen against the backdrop of the outrigger to No 44, the bulky verticality of the extension would appear as an alien introduction that would harmfully intrude into and thereby detract from the settings of the nearby listed buildings and the historic cohesion of the conservation area.

14. There would be oblique views of the extension above the roof of Long Barn from the Market Square, but it would appear particularly conspicuous from within the industrial estate. There is a rich tapestry of roof forms to the rear of No 44 and 46, and the dormer windows present within nearby buildings, such as within No 46 and in No 2, mostly sit within the roof plane rather than extending the wall elevation. Those proposed and the protruding window in the gable end would all disrupt the vernacular harmony of the settings of the listed buildings and the conservation

area. Furthermore, the limited palette of materials present in the historic buildings is a distinctive part of the significance of the listed buildings and the conservation area, and consequently the introduction of cladding would serve to exaggerate the discordant nature of the extension.

15. Although the yard is a mix of gravel and concrete, it has retained an openness that belies its functional, ancillary service relationship to No 46 and to Long Barn. The extension would occupy much of the yard, and its size, height and position would give it a cramped and constrained relationship with nearby buildings. The openness of the yard is an integral element to the historic functioning of the property as a whole and remains evident in Long Barn despite the modern brick and cladding infill. The extension would result in the loss of this openness, as well as compartmentalising it into small areas, thereby eroding the legible purpose of this space and the contribution it makes to the setting of Long Barn and No 46.

16. The Framework requires that when considering the impact of a proposed development on the significance of a designated heritage asset, substantial weight should be given to the asset's conservation. In this case the proposal would lead to harm to the listed buildings and to the conservation area. These harms are of considerable importance and must be weighed against the public benefits of the proposal, including where appropriate securing the optimum viable use.

17. Two of the three units within Long Barn are unoccupied, and the scheme would give the building an ongoing use. This would be an important public benefit. The removal of the brick and cladding infill, and the provision of a home in a town centre location would be further benefits, as would the economic benefits from the spend of future occupiers and the benefits from construction, although the latter would be time limited. Nevertheless, these important benefits would not outweigh the substantial harms to the designated heritage assets.

18. Although an additional dwelling in a main service centre would accord with Policy H2 of the West Oxfordshire Local Plan (2018) (LP), for the reasons given the scheme would fail to preserve or enhance the character or appearance of the conservation area. It would also harm the special interest of the listed curtilage building and fail to preserve the settings of the nearby listed buildings. These harms would conflict with the Act and with LP Policies OS2, OS4, EH9, EH10, EH11, EH12 and EH16, as these policies require, amongst other things, development to be high quality, to conserve and enhance the historic built environment, and respect the historic and architectural character of an area. They also require development to conserve or enhance the character, and appearance of a conservation area, conserve or enhance the special architectural or historic interest of a listed building and its setting, and to avoid extensions or alterations which would obscure or compromise the form or character of the original building.

*Living Conditions*

19. Long Barn is to one side of the access lane to the industrial estate. The lane provides both vehicular and pedestrian access to Market Square, and it narrows to a single carriageway near to the junction with tall buildings to either side. Within the industrial estate there are a variety of uses that include a catering supplier, takeaway, café, gym, and social club, the latter of which remains open till the early hours of the morning on Fridays and Saturdays.

20. Given the town centre location of the dwelling, future occupiers would experience noise and disturbance from the day-to-day comings and goings associated with the industrial estate and from the diverse uses within Market Square. Use of the lane and the businesses within the industrial estate would result in noise and vibration nuisance to future occupiers.

21. However, the constrained width of the lane would preclude large vehicles passing by the building. The dwellings within No 2 have multiple windows looking into the lane with some near a speed bump, but apart from the installation of a rooflight to serve a bathroom there would be no new openings within the southern elevation of Long Barn. The appellant's Addendum Report (2024) has provided a summary of several of the permitted uses within the industrial estate and their opening hours, as well as details of the acoustic conditions attached to the conversion of No 2 into dwellings.

22. Given the circumstances of this case, including the nature of the building, the town centre position of the dwelling, the separation between Long Barn and the social club, and that other nearby dwellings have incorporated mitigation measures, including those on the opposite side of the lane, conditions for noise and vibration mitigation measures would be appropriate to provide acceptable living conditions for future residents. Subject to such measures the scheme would accord with LP Policy EH8 which requires development to achieve a high standard of amenity, including with regard to noise and nuisance.

23. The northern elevation of Long Barn would comprise full height glazing providing future occupiers with an outlook into the service yard and onto the tall wall of No 44. The orientation of these windows and the enclosed nature of the service yard would impact upon levels of sunlight received into the rooms, albeit the extent of the glazing would maximise natural light levels. However, the two storey extension would significantly compromise light levels to these north facing windows. Even with the presence of the glass connecting corridor, the size, height and proximity of the extension would result in future occupiers experiencing low levels of natural light and an oppressive, constrained outlook.

24. Although there have been no objections to the scheme from neighbouring occupiers, there are windows in No 44's outrigger. Future occupiers of the dwelling would be overlooked both from the users of No 44 and from those within the outrigger to No 46, with the latter having direct views into the extension. Irrespective of the extension providing a degree of screening to the westernmost rooms of the dwelling, other rooms would experience overlooking. Whilst the appellant has suggested the use of obscure glazing in the first floor bedroom window, this would not ameliorate the loss of privacy to other rooms.

25. For these reasons the scheme would fail to provide future occupiers with acceptable living conditions, and the suggested conditions would not overcome these harms. Consequently, there would be conflict with LP Policies OS2 and OS4 and the Council's supporting DG, which require amongst other things, development to be compatible with adjoining uses, and not harm living conditions.

*Protected Species*

26. The presence of protected species is a matter that should inform the nature of any scheme, with Circular 06/2005 – Biodiversity and Geological Conservation (the Circular) making it clear that the presence of a protected species is a material

consideration when development is being considered. The Circular states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by proposed development is established before planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.

27. The appellant's Protected Species Report (2021) (PS) found the building to have a negligible potential to offer shelter to bats as a roost and for breeding, with no nesting birds. Recommendations were made to include lighting and enhancement measures. However, the survey is now nearly five years old, and it cannot be assumed that its findings remain extant, as there is evidence of change within the building since the survey took place, such as additional roof tiles missing and two of the units having been unoccupied for several years. In the absence of an up-to-date survey, pre-commencement conditions would fail to provide sufficient certainty that protected species would not be harmed by the scheme.

28. The scheme has failed to demonstrate that protected species would not be harmed by the development. There would be conflict with LP Policy EH3, as this requires amongst other things, the protection and mitigation of impacts upon protected species.

*Town Centre*

29. The Council has raised no objection to the principle of a residential use in a town centre location, albeit LP Policy E1 seeks, amongst other things to retain existing employment sites to maintain the sustainability and economic diversity of its towns. The policy acknowledges that in some cases a continuing business use may not be suitable or economically viable, and there is a requirement to demonstrate that the site or premises is not reasonably capable of being used or redeveloped for employment purposes.

30. Long Barn comprises three units and a kitchen and toilet facility. The premises are well maintained but need updating and modernising, with the appellant's Addendum Report providing a costing for the refurbishment and investment payback. Two of the units have been vacant since 2022, with the third having been occupied for over ten years on what is described by the appellant as a very low rent.

31. However, there is a high and consistent level of occupancy of units in Nos 44 and 46 and although lettings are achieved via social media or Instant Offices, what has not been provided in this instance is the level of interest, if any, for Long Barn, including how long it has been marketed and at what price. Given the objectives of LP Policy E1 and that the Framework accords substantial weight to supporting business growth, these records would demonstrate whether Long Barn is economically viable. As such the scheme fails to meet the requirements of national and local policy.

32. The appellant has pointed out that other commercial units have been converted to residential uses, with that at Nos 2 and 6 being permitted in 2018 and 2021 respectively. Although to the immediate south of Long Barn, the details of these permissions, including why no economic justification was required has not been provided to enable a comparison. As regards the other cases cited, given the age of these permissions that date from 2010 and 2008, they would have been

approved under a different development plan regime. Given these differences and omissions, none of the comparisons determines the approval of the scheme.

**Other Matters**

33. The Council has referred to other listed buildings near the site, namely 9 Corn Street, 38 & 40 Market Square and the Angel Public House, all of which are grade II listed. The outrigger of No 44 forms a tall, high enclosure of the site that prevents visibility of 38 & 40 Market Square and the Angel Public House. There are views of the top of the roofs of the buildings in Corn Street, but the scheme would be seen as part of the rich diversity of roofscapes that characterise the area. As such there would be a neutral impact upon the settings of these listed buildings.

34. The appellant has raised several concerns regarding the Council's handling of the applications and appeals, including a lack of communication and opportunity to comment at the Planning Committee. Such matters fall to be pursued by other means and have no bearing upon the merits of the case.

**Planning Balance**

35. The Council acknowledges it does not have a five year housing land supply, stating a figure of 4.3 years compared to the 2-3 years cited by the appellant. Whatever the shortfall, the provision of an additional dwelling in a sustainable location and meeting the Framework's requirements to make an efficient use of land would be substantial benefits. Modest benefits from the future spend of additional residents, as well as the time limited economic benefits during construction.

36. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The decision making policies in the Framework are a material consideration and should be read alongside policies in the development plan, and where policies or parts of them are materially inconsistent with policies in the Framework, the Framework requires they should be given very limited weight. The Framework seeks to achieve well-designed places, with development responding to its context, affording substantial weight to the conservation and/or enhancement of the significance of designated heritage assets, and creating liveable places to live, which accords with the objectives of LP Policies OS2, OS4, EH8, EH9, EH10, EH11, EH12, and EH16. There are also requirements within the Framework to minimise impacts upon biodiversity, and the safeguarding of employment premises, objectives that are reflected in LP Policies EH3 and E1. Consequently, the conflict of the scheme with these development plan policies should be given significant weight.

37. Whilst a key aim of the Framework is to significantly boost the supply of housing in sustainable locations, when read as a whole the Framework does not suggest this should happen at the expense of other considerations. In this case, irrespective of the Council's housing land supply shortfall and the important benefits that accrue from the scheme, these are outweighed by the substantial harms that arise to the listed buildings, to the conservation area, to biodiversity, to town centre vitality and viability, and the significant harms to the living conditions of future occupiers.

## Conclusion

38. There would be conflict with the development plan when considered as a whole, and there are no other considerations, including the requirements of the Framework, that outweigh this finding. Thus, for the reasons given above and having considered all other matters raised, the appeals are dismissed.

*J J Evans*

INSPECTOR